

201802518  
POM Kyle Erickson

On March 12, 2018, PO Erickson and partner PO Pastran pulled over a vehicle and, after smelling marijuana, conducted a search of the vehicle. Both PO Erickson and PO Pastran independently searched the vehicle and initially did not find anything. The driver admitted to having smoked an hour prior to the stop but denied having any marijuana in the vehicle. After PO Pastran concluded that the car was “clean,” there was a several minute gap in PO Erickson’s BWC video footage, during which he was left alone inside the car. Several minutes later, PO Erickson’s BWC resumed working and showed him holding a brown cigarette which he claimed to have found on the floor in front of the backseat where previously there had been nothing.

During his CCRB interview, PO Erickson stated that he found a lit marijuana cigarette behind the driver’s seat on the floor. Months later, during testimony at Richmond County Criminal Court, PO Erickson gave this same testimony that he observed a lit marijuana cigarette on the floor behind the driver’s side. During the CCRB interview, he testified that he activated his BWC at the beginning of the car stop and believed it was recording the entire incident. When he later testified in Richmond County Criminal Court, he stated that his BWC malfunctioned and that he notified the NYPD. Although there is a four-minute gap between in PO Erickson’s BWC during the car stop, PO Pastran’s BWC and a car occupant’s cell phone recorded during the gap and showed that no lit marijuana cigarette or any other objects were on the back seat or floor in front of the back seat at the time the officers originally searched the vehicle.

PO Erickson started the search from the front seat. Before his BWC footage was deactivated, he was recorded saying to PO Pastran, “We have to find something, you know what I mean?”

After PO Erickson’s BWC was deactivated, PO the other video footage showed that PO Pastran conducted a 50 second search of the backseat and remarked three times that there was nothing. After PO Pastran’s search, PO Erickson entered and searched the back seat. He said nothing, closed the door, and returned to searching the front seat. It was only approximately three minutes later, after PO Erickson was alone inside the car that he claimed to have found the marijuana cigarette on the floor of the back seat. His BWC reactivated to show him holding a brown unlit cigarette in his hand. From reviewing the footage, the CCRB found that the preponderance of the evidence indicated there was no burning marijuana cigarette on the floor in the back of the vehicle.

The incident and video footage were widely covered in local and national media:

<https://gothamist.com/news/judge-tosses-staten-island-mans-conviction-following-nypd-drug-planting-allegations>

<https://www.nytimes.com/2018/11/19/nyregion/body-cameras-police-marijuana-arrest.html>

<https://theintercept.com/2020/03/18/nypd-misconduct-body-cameras-marijuana/?fbclid=IwAR0PB-RswwSLV2zYu8dCCMUI2-1EHERYv4Q7wF3ZO71lSK5Vt6ZUuBXiU50>

<https://www.dailymail.co.uk/news/article-10161927/Judge-throws-mans-conviction-bodycam-footage-shows-NYPD-cop-planting-drugs.html>

<https://www.silive.com/crime-safety/2021/11/da-drops-charges-in-controversial-nyc-arrest-involving-allegations-of-police-misconduct.html>

PO Erickson subsequently “retired” from the force and the other officer involved in the incident PO Pastran is on extended leave.

In November 2021, the District Attorney’s office ultimately dismissed the charges against the driver.

The NYPD had also substantiated allegations against PO Erickson for inaccurate, incomplete, or discrepant reporting in three separate incidents in January 2018, April 2018, and August 2019.

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: APU	CCRB Case #: 201802518	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/28/2018 12:36 PM, Monday, 03/12/2018	Location of Incident: [REDACTED]	Precinct: 120	18 Mo. SOL 8/28/2019	EO SOL 8/28/2019	
Date/Time CV Reported Fri, 03/30/2018 2:01 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/30/2018 2:01 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Elmer Pastran	06851	§ 87(2)(b)	120 PCT
2. POM Kyle Erickson	16014	§ 87(2)(b)	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Elmer Pastran	Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b) .	A . § 87(2)(g)
B . POM Elmer Pastran	Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b) .	B . § 87(2)(g)
C . POM Kyle Erickson	Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson searched § 87(2)(b) .	C . § 87(2)(g)
D . POM Elmer Pastran	Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b) .	D . § 87(2)(g)
E . POM Elmer Pastran	Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched the vehicle in which § 87(2)(b) was an occupant.	E . § 87(2)(g)
F . POM Kyle Erickson	Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson searched the vehicle in which § 87(2)(b) was an occupant.	F . § 87(2)(g)
G . POM Kyle Erickson	Other: There is evidence suggesting Kyle Erickson provided a false official statement in violation of PG 203-08	G . § 87(2)(g)
H . POM Kyle Erickson	Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson arrested § 87(2)(b) .	H . § 87(2)(g)
I . POM Kyle Erickson	Abuse of Authority: On March 12, 2018, Police Officer Kyle Erickson stopped the vehicle in which § 87(2)(b) was an occupant.	I . § 87(2)(g)
J . POM Elmer Pastran	Abuse of Authority: On March 12, 2018, Police Officer Elmer Pastran stopped the vehicle in which § 87(2)(b) was an occupant.	J . § 87(2)(g)
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On March 30, 2018, § 87(2)(b) filed the following complaint with the CCRB by phone.

On February 28, 2018, at approximately 12:36 p.m., § 87(2)(b) was driving his car with three friends: § 87(2)(b) Solomon § 87(2)(b) and § 87(2)(b) when PO Elmer Pastran and PO Kyle Erickson of the 120<sup>th</sup> Precinct pulled them over at the intersection of Ellington Street and Targee Street in Staten Island. They were all told to exit the vehicle and PO Pastran searched § 87(2)(b) and § 87(2)(b) against the side of the car. PO Erickson searched § 87(2)(b) (Allegations A, B, C and D – Abuse of Authority: § 87(2)(g)). PO Erickson and PO Pastran both searched § 87(2)(b)'s vehicle (Allegations E and F – Abuse of Authority: § 87(2)(g)). There is reason to suggest that PO Erickson made false official statements in violation of PG 203-08 (Allegation G – Other Misconduct). § 87(2)(b) was arrested for criminal possession of marijuana in the fifth degree (Allegation H – Abuse of Authority: § 87(2)(g)). He was also charged with failure to signal and illegal window tints (Board Review 1).

On March 12, 2018, PO Pastran and PO Erickson stopped § 87(2)(b) while he was driving with an unidentified individual in front of § 87(2)(b) in Staten Island (Allegations I and J - Abuse of Authority: § 87(2)(g)). PO Pastran stated that he smelled marijuana coming from § 87(2)(b)'s car and told § 87(2)(b) he intended to search the car but did not ultimately do so, releasing § 87(2)(b) without any further action § 87(4-b), § 87(2)(g).

There were cell phone videos recorded by § 87(2)(b) as well as several Body Worn Camera videos recorded of both incidents. On April 5, 2018, in response to a request by the CCRB for BWC footage related to the incident on February 28, 2018, the NYPD provided only one BWC video file recorded by PO Erickson. It was subsequently discovered when the New York Times published their story that another BWC video file existed which was recorded by PO Erickson's BWC, but was not provided to the CCRB by the NYPD. After the video was obtained, it showed PO Erickson's search of § 87(2)(b) an action which was not shown in any other videos of the incident and not seen by § 87(2)(b). Without this video, this act of potential misconduct would not have been known to the CCRB.

This case was classified as a sensitive case due to press coverage of the incident (See Board Review 27).

§ 87(4-b), § 87(2)(g)

On July 24, 2019, a referral was made to IAB via CCRB case number 201906469 to address the CCRB's finding that PO Erickson provided false official statements when he stated that he found a burning marijuana cigarette on the floor in the backseat of § 87(2)(b)'s vehicle.

NYPD Risk Management was notified of this incident.

### **Findings and Recommendations**

**Allegation (A) Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b)**

**Allegation (B) Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b)**

**Allegation (C) Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson searched § 87(2)(b)**

**Allegation (D) Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched § 87(2)(b)**

**Allegation (E) Abuse of Authority: On February 28, 2018, Police Officer Elmer Pastran searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (F) Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson searched the vehicle in which § 87(2)(b) was an occupant.**

An attorney was consulted on allegations A, B, C, D, E and F.

It is undisputed that PO Pastran searched § 87(2)(b) and that PO Pastran and PO Erickson searched § 87(2)(b)'s vehicle. § 87(2)(b) did not witness the searches of § 87(2)(b) and § 87(2)(b) and none of the other occupants of the vehicle were responsive to the CCRB's contact attempts. PO Pastran's BWC video showed that PO Pastran searched § 87(2)(b) and § 87(2)(b) PO Erickson's BWC video showed that he searched § 87(2)(b)

On February 28, 2018, at approximately 12:30 p.m., § 87(2)(b) was driving his grey § 87(2)(b) sedan with three friends, § 87(2)(b) Solomon § 87(2)(b) and § 87(2)(b). They had come from a store which § 87(2)(b) did not recall, and were driving to § 87(2)(b)'s home located at § 87(2)(b). At the intersection of § 87(2)(b), they were pulled over by PO Erickson and PO Pastran. PO Pastran approached the driver's side window and § 87(2)(b) asked why he had been pulled over. PO Pastran allegedly responded that § 87(2)(b)'s vehicle smelled of marijuana. PO Pastran instructed § 87(2)(b) and everyone else in the car to exit the vehicle. PO Pastran searched § 87(2)(b) and § 87(2)(b) entering their pockets. § 87(2)(b) did not see whether § 87(2)(b) was searched, but PO Erickson is seen searching § 87(2)(b) in his BWC video. PO Pastran and PO Erickson both searched inside the vehicle. PO Erickson claimed to have found the remains of a marijuana cigarette, though § 87(2)(b) claims that the cigarette was placed there by PO Erickson. § 87(2)(b) denied that he had any marijuana inside his vehicle. He also denied that he had smoked marijuana that day before being pulled over and denied that there was the smell of marijuana in his car. During his CCRB interview on April 6, 2018, there was a strong odor of marijuana emanating from § 87(2)(b)'s person. During the interview, § 87(2)(b) confirmed that the smell was marijuana and he admitted that he does smoke marijuana. (Board Review 2)

PO Pastran (**Board Review 3**) and PO Erickson (**Board Review 4**) both stated that they were on patrol together when they observed § 87(2)(b)'s vehicle make a left turn from § 87(2)(b) without signaling. Both officers also stated that § 87(2)(b)'s vehicle had excessive window tints which made it impossible to see the occupants of the vehicle and that they pulled over the vehicle for these reasons. PO Pastran and PO Erickson both stated that they have been trained to detect the odor of marijuana and smelled the odor of burnt marijuana emanating from § 87(2)(b)'s vehicle when the windows were lowered. They both stated that the odor of marijuana provided reasonable suspicion to believe that there was marijuana in the car or its occupants and that is why they decided to search the vehicle and § 87(2)(b). All the occupants of the vehicle were instructed to exit. PO Pastran searched inside the pockets of § 87(2)(b) and § 87(2)(b) against the side of the vehicle. PO Pastran and PO Erickson both searched the vehicle, opening all four doors of the vehicle, and searching the front and rear passenger compartments.

In the BWC video recorded by PO Pastran, while PO Pastran searched § 87(2)(b), § 87(2)(b) stated, "We just smoked an hour ago." PO Pastran responded, "The car reeks." § 87(2)(b) replied, "Yeah I know." (**Board Review 5**) Later, as PO Pastran transported § 87(2)(b) to the 120<sup>th</sup> Precinct stationhouse, § 87(2)(b) told PO Pastran that he had been arrested for criminal possession of marijuana on another occasion, but denied that he smoked any marijuana on that occasion. PO Pastran responded, "But this time you were." § 87(2)(b) replied, "This time I was smoking in this car. This my car." (**Board Review 7**).

The smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants. People v. Chestnut 43 A.D. 2d 260 (1974). (**Board Review 8**)

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (G) Other Misconduct: There is evidence suggesting Police Officer Kyle Erickson provided a false official statement in violation of PG 203-08**

**Allegation (H) Abuse of Authority: On February 28, 2018, Police Officer Kyle Erickson arrested § 87(2)(b)**

In his CCRB interview (**Board Review 4**) on August 9, 2018, regarding the search of § 87(2)(b)'s vehicle on February 28, 2018, PO Erickson stated, "Back seat, behind the driver's seat, on the floor, I found a burned marijuana cigarette." When asked whether it was lit or unlit, PO Erickson stated, "It was lit."

§ 87(2)(b) was arrested and charged with PL 221.10 (1) – criminal possession of marijuana in the fifth degree.

On August 14, 2018, during testimony at Richmond County Criminal Court, PO Erickson testified, “I observed a brown lit marijuana cigarette on the floor behind the driver’s side.” On October 4, 2018, during further testimony at Richmond County Criminal Court, PO Erickson was questioned on his previous testimony on August 14, 2018, and confirmed that his testimony was that the marijuana cigarette was found on the floor behind the driver seat, lit, obviously burning, and that it was not hidden by anything on the floor.

PO Erickson stated in his CCRB statement (**Board Review 4**) that he activated his BWC at the beginning of the car stop and believed that it recorded the entire incident. When he testified in Richmond County Criminal Court, PO Erickson stated that his BWC malfunctioned and that he notified the NYPD. Whatever the cause, it resulted in two separate video files of this incident recorded from PO Erickson’s BWC. There is a gap of approximately 4 minutes and 15 seconds between the two video files from PO Erickson’s BWC during the car stop of § 87(2)(b)’s vehicle on February 28, 2018. PO Pastran’s BWC and § 87(2)(b)’s cell phone continued to record during the gap in PO Erickson’s video. The videos together showed the following:

While PO Pastran searched § 87(2)(b) standing at the rear driver’s side of § 87(2)(b)’s car, the rear driver’s side door was open and PO Pastran’s BWC captured a view of the back seat and floor of the back seat. No objects can be seen on the back seat or on the floor in front of the back seat. (See **Board Review 9** for screen capture of video) According to the timestamp of the BWC, this was at 12:23:14.

After § 87(2)(b) and § 87(2)(b) all were removed from the vehicle, PO Erickson began searching the car, by entering the front passenger seat. PO Erickson leaned into the back seat, picking up a cardboard box from the rear passenger side floor and placed it on top of the rear passenger seat. At this point, § 87(2)(b) recorded PO Erickson from the rear driver’s side door. § 87(2)(b)’s cell phone camera captured a view of the rear driver’s side backseat, and the floor. No objects can be seen on the floor or on the back seat (See **Board Review 10** for screen capture of video). PO Erickson then exited the car and walked around to the front driver’s door and told § 87(2)(b) to back away from the car and closed the driver-side back door. § 87(2)(b) backed away. With the rear driver side door closed, no civilian had access to the back seat of the car, and § 87(2)(b)’s cell phone video showed that he did not enter the back seat. PO Erickson then entered the front driver’s seat, while PO Pastran entered the rear passenger-side door. From the driver’s seat, PO Erickson leaned into the back seat, opening and closing the retractable cup holder at the center base of the back seat. PO Erickson said to PO Pastran, “We have to find something, you know what I mean?” PO Erickson turned to the front center console and his BWC cut out, § 87(2)(b) the first video file from PO Erickson’s BWC. (See **Board Review 11** for video clip) The last timestamp on PO Erickson’s BWC before it deactivated was 12:25:46.

PO Erickson’s actions in the driver’s seat are not recorded on any video as PO Erickson’s BWC was deactivated, § 87(2)(b) was recording with his cell phone at the rear of the car, and PO Pastran was in the back seat inside the car. His body worn camera showed small pieces of debris



on the floor of the back seat, and PO Pastran remarked, “There’s flakes everywhere.” However, there was no object resembling a cigar or cigarette visible on the floor or on the back seat. There was no smoke visible and no burning objects. (See **Board Review 12** for screen capture) PO Pastran stated, “Back seat looks pretty clear. They must have just smoked.” His search took place from 12:26:00 to 12:27:06 (See **Board Review 13** for video clip)

After searching in the back seat, PO Pastran exited the back seat and entered the front passenger seat. PO Pastran told PO Erickson to ask § 87(2)(b) for his keys. PO Erickson exited from the driver’s seat and spoke to § 87(2)(b). PO Erickson opened the rear driver’s side door as § 87(2)(b) was speaking and bent down towards the back seat. PO Erickson’s BWC was still off at this time, but § 87(2)(b) was recording PO Erickson from behind with his cell phone. PO Pastran was on the front passenger side door and his BWC showed PO Erickson in the back seat. While PO Pastran was standing up, his BWC showed PO Erickson leaning down onto the backseat, and touching something on top of the back seat. PO Erickson’s hands and whatever he was touching were blocked from the view of PO Pastran’s BWC by the headrest of the front passenger seat. PO Erickson then stood up and closed the driver’s side back door. PO Erickson returned to the front driver’s seat and PO Pastran continued to search in the front passenger seat. None of the cameras show the condition of the back seat after this point. PO Erickson spent approximately 35 seconds in the back seat. The back doors remained closed for the remainder of the incident, and no one other than PO Erickson had access to the back seat from this point onward (See **Board Review 14** for a side-by-side synchronized view of PO Pastran’s BWC and § 87(2)(b)’s cell phone showing the same period in time. See **Board Review 15** for a side-by-side synchronized view of PO Erickson bending down in the back seat, and a zoomed in view of the same). According to PO Pastran’s BWC timestamp, PO Erickson was in the back seat at 12:28:12.

PO Erickson’s BWC was still off as he returned to the driver’s seat. PO Pastran was still in the front passenger seat and his BWC did not show PO Erickson’s actions in the driver’s seat, but showed PO Pastran opening the center console. At this point, PO Pastran muttered to himself, “Nothing. Clean. Fuck.” As § 87(2)(b) watched and recorded video of PO Erickson from outside of open driver’s side front door, § 87(2)(b) began to yell and accuse PO Erickson of “planting something” in his car. § 87(2)(b)’s cell phone video showed PO Erickson with a small green plastic bag in his hand while kneeling on the driver’s seat. After § 87(2)(b) began yelling, PO Erickson exited the driver’s seat and yelled for § 87(2)(b) to back away. PO Pastran also exited the car and told § 87(2)(b)’s friends to calm § 87(2)(b) down. § 87(2)(b) was handcuffed and his cell phone video stopped. While § 87(2)(b) was being handcuffed, PO Erickson returned to the driver’s seat of § 87(2)(b)’s car.

PO Erickson’s BWC reactivated at 12:30:29 when he returned to the front driver’s seat. PO Erickson placed an empty green plastic bag on the center console and reached into the back seat. The driver’s side back seat and the floor in front of the back seat were not visible to the BWC because it was blocked by the headrest of the driver seat. After reaching into the back seat, PO Erickson produced the remnants of a brown cigarette in his hand. The cigarette did not appear lit and was not smoking. PO Erickson picked at the cigarette with his finger. He then placed it on the driver’s seat. This was approximately four minutes after PO Pastran had searched the back seat

for 50 seconds and approximately three minutes after PO Erickson searched the back seat for 35 seconds. (**Board Review 16** for video clip)

While PO Erickson was alone inside § 87(2)(b)'s car, PO Pastran was standing outside of the car speaking to another officer and stated, "We didn't find it." PO Pastran then walked to PO Erickson seated at the driver door after PO Erickson found the cigarette. PO Erickson asked PO Pastran whether he wanted to arrest everyone. PO Pastran replied that only § 87(2)(b) would be arrested because he is the owner of the vehicle. PO Erickson then picked up the cigarette and stated to himself, "Alright this was in the back seat on the floor. It's a marijuana cigarette. It's lit. I just had to put it out." PO Erickson then told PO Pastran that he found the marijuana cigarette and that it was lit when he found it. PO Erickson placed the cigarette into the green plastic bag previously produced.

According to Patrol Guide Procedure 203-08 (**Board Review 23**), the intentional making of a false official statement is prohibited, absent exceptional circumstances. Examples of circumstances in which false statements may arise include, but are not limited to, interviews pursuant to a CCRB investigation and lying under oath during criminal proceedings.

As shown above, the video evidence recorded on February 28, 2018, indicates that by a preponderance of the evidence, there was not a burning marijuana cigarette located on the floor behind the driver's seat of § 87(2)(b)'s car. At the beginning of the car search, PO Pastran conducted a 50 second search of the backseat area and remarked three times afterwards that there was nothing. While PO Erickson's BWC was off, he entered and searched the rear driver's side back seat – the precise location which he later claimed to have found the marijuana cigarette. However, PO Erickson did not indicate in any way that he had found anything during the search. In fact he closed the back door, returned to the front driver's seat and continued searching in the front driver seat. It was only when PO Erickson was alone inside the car, approximately three minutes later, that he claimed to have found the marijuana cigarette on the floor of the back seat. § 87(2)(g) PO Erickson's BWC resumed recording at this point. However, the video did not show the marijuana cigarette on the floor of the vehicle. The video only shows the cigarette in PO Erickson's hands after he allegedly found it. § 87(2)(g)

§ 87(2)(g)

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According to NY State Penal Law 221.10 (1) (**Board Review 17**) "A person is guilty of criminal possession of marihuana in the fifth degree when he knowingly and unlawfully possesses

marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view.”

As shown in the various videos, the preponderance of evidence indicates that there was no burning marijuana cigarette on the floor in the back of § 87(2)(b)'s vehicle. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

**Allegation (I) Abuse of Authority: On March 12, 2018, Police Officer Elmer Pastran stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (J) Abuse of Authority: On March 12, 2018, Police Officer Kyle Erickson stopped the vehicle in which § 87(2)(b) was an occupant.**

On March 12, 2018, at approximately 1:13 p.m., § 87(2)(b) was driving with an individual whom he declined to identify. § 87(2)(b) had just driven out of a gas station when he was pulled over by PO Pastran and PO Erickson in front of § 87(2)(b) in Staten Island. PO Pastran told § 87(2)(b) that he could smell marijuana coming from his car, but did not specifically state that as the reason for pulling him over.

PO Pastran and PO Erickson both stated that they pulled over § 87(2)(b)'s vehicle because it had excessive window tints. Both officers denied that they recognized § 87(2)(b)'s vehicle a § 87(2)(b) sedan because they claimed it is a common model of vehicle in the neighborhood. They stated that they did not recognize § 87(2)(b) until they approached the vehicle with its windows lowered since they could not initially see him due to the tinted windows. Both officers denied stopping § 87(2)(b)'s vehicle for any other reason than to warn and admonish him on the tinted windows. PO Pastran and PO Erickson both stated that they used their discretion not to issue a summons for the tinted windows to § 87(2)(b).

In PO Pastran's Body Worn Camera video on March 12, 2018. When PO Pastran walked up to § 87(2)(b)'s car window, he immediately remarked that the vehicle smelled of marijuana, but no officer claimed to have stopped the vehicle for this reason, nor did they specifically cite any reason for pulling over § 87(2)(b)'s vehicle while speaking to him.

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

### **Allegations Not Pleaded**

**Abuse of Authority:** A frisk allegation is not pleaded against PO Pastran for frisking § 87(2)(b) on March 12, 2018, because § 87(2)(b) did not mention this action in his CCRB interview, and his cell phone video did not show a frisk take place. § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) has been a party.
- § 87(2)(b)

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- PO Kyle Erickson has been a member of service for three years and has been a subject in three other CCRB complaints and six allegations, none of which were substantiated.
- PO Elmer Pastran has been a member of service for four years and has been a subject in six other CCRB complaints and 11 allegations, of which one was substantiated.
  - CCRB case number 201706170 involved substantiated allegation of frisk against PO Pastran. The Board recommended Command Discipline B. The NYPD did not impose any discipline.
- PO Erickson and PO Pastran are both named as subject officers in CCRB case number 201802185, which is being submitted to the same panel as this case for review. § 87(2)(g) [REDACTED] Both cases involved car stops for traffic infractions. Both cases involved searches of the vehicles due to the odor of marijuana. Both cases resulted in the discovery of alleged marijuana by PO Erickson during the car search, where marijuana had not been previously discovered. In both cases PO Erickson stated to PO Pastran, “We gotta find something.” In both instances, the arrest reports named the arrestee as a member of a gang.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of July 3, 2018, the Office of the New York City Comptroller has no record of a Notice of Claim being filed regarding this complaint (**Board Review 25**).
- § 87(2)(b) [REDACTED]

Squad No.: 7

Investigator: \_\_\_\_\_

Signature                  SI Simon Wang                  Date

Print Title & Name

Squad Leader: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_



OFFICE OF THE DISTRICT ATTORNEY  
RICHMOND COUNTY  
MICHAEL E. MCMAHON  
DISTRICT ATTORNEY

February 7, 2020

[REDACTED]  
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[REDACTED]  
[REDACTED]

With reference to the above-mentioned case, and pursuant to our continuing obligations, the People make the following disclosure with respect to Police Officer Kyle Erickson:

On or about March 30, 2017, PO Erickson failed to notify the radio dispatcher at the start of a vehicle pursuit and failed to terminate the vehicle pursuit. He forfeited 15 vacations days.

On or about January 4, 2018, PO Erickson had a discrepancy on an invoice for marijuana and an incomplete or inaccurate property clerk invoice. He was issued a Schedule A command discipline.

On or about April 15, 2018, PO Erickson had a discrepancy on an invoice for a controlled substance and an incomplete or inaccurate property clerk invoice. He was issued a Schedule A command discipline.

On or about August 30, 2019, PO Erickson maintained an incomplete or improper memobook. He was issued a Schedule A command discipline.

The People reserve the right to move *in limine* to preclude reference to this information, or otherwise to object to its use or introduction into evidence during trial.

Should you wish to discuss this matter, please do not hesitate to call me at [REDACTED] [REDACTED] during office hours.

Sincerely,

[REDACTED]  
[REDACTED]

Cc: Clerk of the Court